App. F. IX-4

192[illegible]-25 (Last)

File No. 17-28

Serial Nos. 1-3.

Previous References

H. 86-27, 50

H. 141-43, 1-5

Later References

Law 63. 32-1-2

✓ ~~D~~ (22)

General and Revenue Secretariat.

Serial Nos. 3

Part B for 10 Oct 1928

SUBJECT

GENERAL AND REVENUE SECRETARIAT.

( )

NOTES.

File No. 17

FILE HEADING.

Suit by Chikkanagappa &c... the Chief Secretary.
O.S. 3 of 28-29 in the
District Court, Bangalore—

The District Judge Bangalore

No. XX 284 Dated 7.8.28 Received 9.8.28

Diary No.	631	Enclos. 1	Spare copies	Serial No.

BRIEF ABSTRACT OF LETTER.

Forwards Summons and copy of plaint.

NOTES AND ORDERS.

1) This is a suit for compensation for breach of cons entered into by the Plaintiff with the forest department fo cutting and removing 230 tons of fuel, towards the Consideration of which the plaintiff alleges in para 2 to have deposited Rs 1716-12-2. That owing to

General and Revenue Secretariat.

File No. 17 of 1928.

Serial No.

misunderstandings with the D.F.O.
he was not allowed to cut & remove fuel
to the extent of 68 tons on the allegation that
had removed excess quantities by theft
for which a Criminal prosecution was la
which ultimately in the Chief Court en
in the acquittal of the plaintiff = He now sue
for the value of 68 tons besides the profits which he
would have made and interest thereon with
notice charges etc totalling to an amount
Rs 1746-12-2: The suit is posted to 3-9-28

2) A notice dated 4-7-27 was issued a
is seen from the notice Register & it is there n
that the threatened suit may be awaited. The
relating to the notice is not available in the Br
Perhaps it may be in the Forest Section which
may kindly be requested to put up the
necessary papers.

10/8/28

The file may be put up to Chief Secy
for signature on the original summons in lieu
of service.

[illegible]

631 Rm 1705

App. F. III—2]

General and Revenue Secretariat. File No. 17 of 1928.

Serial No.	
2	Letter No P 1131/Encl one to Dept Jour returning the original summons —
	The Forest section may be requested to put the papers if any relating to the notice dated 4-7-27 sent by Mr. D. M. Ramachandra on behalf of Chikkanayakka.
	The suit is posted to 3-9-28. Of a letter to PPr, Bangalore to attend on behalf of the Chief Secy & to take defence is put up for approval.
	Secy)
	To the P Pr Bangalore No P 1187 D 20.8.28. Request to appear and take time for filing the written Stat
	Resubmitted. The file may now be sent to the Forest Section for putting up the necessary papers as noted above.
	The Fy Sn Branch for favor of Compliance —

ISSUE & RESUBMIT.

General and Revenue Secretariat. 96 File No. of 192

Serial No.

The two files on the Subject viz Ql. 86-27 (8/50) & 141-25 (1-8 are put up: They may kindly be returned (Sheen dore cotton) 23-8-28 pro By KP with compts

Laws 24/8/

Ft. File 141 of 25 is with the 1st notice given by the party before the Criminal prosecution was launched by the Deptt. It was hence ordered that threatened suit might be awaited.

Ft 86 of 27 is with the 2nd notice given by Mr. D. M. Ramachandra Rao in behalf of the Contractor - On the report received in the previous file, it was ordered again that the party had no Cause of action & that the threatened suit may be awai

These orders seem to be based on the report of the Forest Deptt (Flag C) to the effect that the Contractor had felled excess quantity & hence was therefore not entitled to fell anything mo From the Copy of the plaint, para 3, it is seen that the Chief Court found the Contractor not guilty & acquitted him of the charge of theft. It is therefore that he has sued for the value of 68 tons not allowed to be taken by him.

NOTE—Contn. Sheet.

General and Revenue Secretariat.

Case File No. 17 of 1928.

Serial No.

The Chief Conservator of Forests ~~is~~ and report awaited. Draft put up for approval

MP
25/8/28
Secy)

app
SW
25/8
25/8

To the Chief Conservator of Forests
P.P. 1257 dt 28.8.28.
Request to give necessary help to the P.Pr to enable him to draw up the ~~plaint~~ written statement & send to this office for approval

Sus
MP
31/8/28

Letter No 165/28-29 dated 19/20 Sept 1928 from P.Pr, Rs requesting Submitting a draft ~~written~~ statement prepared by him from instructions from the Forest deptt

Excepting para 7 of the draft which alleges want of notice under Sec 80 C.P.C the rest of the WS is all right & may be approved. Notice under Sec 80 has been given ochsey. (Flags ~~dated~~).

MP
20/9/28
L.R.)

app.
SW
21/9
SW
22/9
Dft. returned after necessary corrections may

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-2°

General and Revenue Secretariat.

Land File No. 17 of 1928.

Serial No.

Draft of a letter to P.P. for fast up.

The keyed W.S. is for signature of Ch: S
The suit is posted for 2-10-28. The file may kindly
be marked to Ch: Secy for kind signature of W
Submitted
Chief Secy)
24.9.28

CHIEF SECRETARY.
24 SEP. 1928

To The P. P. Bangalore.
No OP 836 Dt 25-9-28
Returns the file & papers as also
the written statement duly signed by
Chief Secy

Letter No. B3-22-404-28 dated 21/26 Sept
1928 from Chief Conr of Forests requesting that the
G.A may be engaged for defending the suit under
the Civil mentioned in the letter

The Ch: Conr: suggests that since the G.A
had appeared in the Cr: R: Case, he might be
more advantageously engaged for the defence in
the Suit.

The P. Pr, Bangalore has already appeared
Draft W.S. sent has been approved for being

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-26

Serial No.

filed into Court on 2-10-28.

It is for orders whether the Govt Adv may also be requested to appear in the Ca along with the PPr.

Mof
27-9-28

3rd Member)

Not necessary, I think Public Prosecutor is the proper agency in this case.

(The papers in the pre are kept loose. Pleader's name tagged)

Draft of a reply to the Conservator is put up for approval

Mof
29.9.28

To The Chief Conservator of Forests
Pro P1993 Dt 1-10-28
Intimating that the Public Prosecutor is not appearing in the case.

Civil

Form No. 105.

47
254

CHIEF SECRETARY
8 AUG. 1928

Bangalore
7-8-1928.
631
(P) 192 Laws 17-28-1

From The District Judge
Bangalore Division Bangalore 1.

To The Chief Secretary to the Govt of Mysore
Bangalore 1.

Sir,

I have the honor to forward herewith Defendants'
Summons, in duplicate in OS No 3 of
of 192 . in the file of this Court, and to request, that you will be so good as to cause the duplicate to be served on the individual therein named, and the orginal returned to this Court with due endorsement of service thereon, on or before the date of hearing. (3-9-1928)

Laws 17-28-1 A ~~sum of~~ Rs ~~is herewith sent, being~~
witness batta

I have the honor to be,

Sir,

Your most obedient servant,

~~Manager~~
~~for Deputy~~
By Bailiff

WD 0543—GPB—8,900—17-7-26

Summons for disposal of suit (O, 5, rr. 1, 5) Form No. 1, Civil.

IN THE COURT OF the District Judge Gannaloa Division

SUIT NO. 2 OF 1922/1928

Chiefs Nagappa and a Nyanam Kudanna Paul Coutinho for Hilari Gannaloa

Plaintiff } vs. { Defendant.

The Chief Secretary to the Govt. of Mysore Bangalore

To The Chief Secretary to the Govt. of Mysore Bangalore

WHEREAS the Plaintiff has instituted a suit against you for As per Maint (Copy enclosed) you are hereby summoned to appear in this Court in person or by a pleader duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some person able to answer all such questions, on the 3rd day of September 1928, at 1 o'clock in the Fore noon, to answer the claim; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day beforementioned the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court, this 6-8-1928 day of

Ag. Judge

Notice—1. Should you apprehend your witnesses will not attend of their own accord, you can have a summons from this Court to compel the attendance of any witness and the production of any document that you have a right to call upon the witness to produce on supplying to the Court and on depositing the necessary expenses.

2. If you admit the claim, you should pay the money into Court together with the costs of the suit, to avoid execution of the decree, which may be against your person or property or both.

WD 01866—GPB—17,500—13-6-28

In the Court of the District Judge of Bangalore.

O.S. No. of 38-39.

Plaintiff.

Thicke Veerappa, son of Yejaman Sudarma, aged about 40 years, Fuel Contractor, Kilari Road, Banga-
-lore City.

Defendant.

The Chief Secretary to the Government of Mysore, Bangalore.

Under Order VII Rule 1 of the Civil Pro-
-cedure Code, the Plaintiff states as follows:-

1. The addresses of Plaintiff and Defend-
-ant for service of processes are as stated above.

2. The Plaintiff obtained in public auction on 30-3-1935 the right to billet and remove the casuarina top-ends of the fellings and also dead casuarina trees available in them for supplying the Director of Sandalwood Factory in Bangalore - and executed an agreement in favour of the Dis-
-trict Forest Officer, Tumkur District on behalf of the Government of Mysore and deposited Rs 50/- as security for the due fulfillment of the contract and another Rs 50/- with the Director of Sandalwood Factories in Bangalore and paid Rs 1,716-12-3 to-

-wards

towards the consideration of the contract for cutting and removing 250 tons of fuel.

3. Disputes arose between the Plaintiff and the District Forest Officer regarding the removal of the fuel and the latter imagioned that the Plaintiff removed 372 Railway tons of fuel, much in excess of what he was entitled to do. He therefore instituted Criminal proceed-ings for theft in C.C. No. 75 of 1925-26 in the Court of the Special II Magistrate of Tumkur who found that the Plaintiff cut and removed excess quantity of fuel and convicted him. The District Magistrate modified the sentences but the Chief Court in Criminal Revision 90 of 1926-27 set aside the conviction and sentences and acquitted the Plaintiff and found that the evidence was altogether insufficient to find that any excess quantity was removed.

4. The Plaintiff had removed only 182 tons and had carted them and had yet to remove 68 tons of cut fuel which he was not permitted to do by the District Forest Officer. The Plain-tiff is therefore entitled to be paid the -- value of the 68 tons of this fuel as well as the profits which he would have earned by this sale and return of deposit amount and interest on that amount withheld and notice charges, the details of which are furnished below.

5. The Plaintiff issued 2 notices to the Defendant to pay the amount claimed by him and as he has received no response to them, he is

obliged

obliged to file the suit.

6. The cause of action arose on or about the 1st of August 1926 within which date the plaintiff had to remove the rice in dispute -- whereas within the jurisdiction of this Court. under Regulation VII of 1923.

7. Relief :-

The Plaintiff therefore claims that the defendant is bound to pay him [illegible] with interest and costs.

The details of the claim are as follows :-

1.	[illegible] of plaintiff.	Rs. 90- 0- 0
2.	Cart hire in advance towards the collection of the rice.	100-12- 0
3.	Cost incurred in the collection of the dis-allowed rice from the wood factories.	[illegible]
	Total.....	[illegible]

In this connection the following Indian cases have been brought to my notice on behalf of the defence. The facts of those cases differ from this case in respect of material features affecting the issue and they do not in my humble opinion throw light on the point at issue here. In 19 Indian cases 140, referred to a case where money was advanced to the accused on the undertaking that he should buy paddy at what rate he could and sell to the advancing firm at the market-rate on the day of delivery. This was held by a majority of the Full Bench of the Lower Burma Chief Court to be neither an agency nor a trust. 24 Indian cases 330 referred to a case where the broker agreed to accept payment for the paddy at the current market-rate whether the same shall be higher or lower than the rate at which he purchased the paddy. In these two cases the broker was to have the entire risk & profit due to fluctuations in the market value and that is a distinct characteristic which distinguishes sale from an agency and that in that respect the case before me is altogether different because the profit or risk of - - - - fluctuations goes to the principal namely the Government. 21 Indian cases 323 referred to a case where the consignee was debited with a fixed price on the issue of the consignment and interest was also charged on the price from the date of consignment. The consignment was to be considered as the property of the consignor until it was sold. In that case two judges held it created the relationship of buyer and seller throughout. Justice Wallis however held it to be a case of conditional sale, the legal relationship being considered to be that of principal and agent up to the sale which transformed the relationship of principal and agent into one of seller and buyer. The circumstance that led to two of the learned Judges holding that it was an absolute sale from the beginning and to the third Judge holding that it was a conditional sale was that the price was fixed and debited to the consignee on the date of consignment and that interest was charged from the

A. P. F. VI. G[illegible]

SUBJECT.....

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.....

ISSUED & RESUBMIT.

Diary No. of letter replied to.....

Section Law

File No. 17-28

Serial No. [illegible]

No. P 1131/Encore

General and Revenue Secretariat

the *192*

To The District Judge,
Bangalore

Date of issue 15-6-29

Signed by [illegible]

Sir,

With reference to your letter no: XX 254 dated 7th august 1928 forwarding the defendants Summons in O.S. 1103 of 28-29 in the file of your Court I have am directed to return herewith the original with due endorsement of service on the Chief Secretary

[illegible]

for Secy to Govt

List of enclosures.....

Copied by .....

Examined by .....

over

A. P. F. VI. G1]

SUBJECT.....

.....

.....

ISSUE
&
RESUBMIT.

Section C

File No. 17—28

Serial No. 2

Diary No. of letter replied to.....

No. 1187

General and Revenue Secretariat

( )

the *192*

To The Public Prosecutor
Bangalore.

Date of issue 20/8/28

Signed by M.N.S

Sir,

I am directed
you to appear and to
time for filing the written statement
~~defence~~ on behalf
of the Chief Secretary who is
the defendant in O.S. 3
of 28-29 on the file of the
District Court, Bangalore
The case is posted to 3rd September
1928.

I have etc

List of enclosures.....

Copied by .....

Examined by .....

for Legal Remembrancer
& Secy to Govt.

over

WD0325—GPB—30,000—26-5-27

Law Dept

17.8 AM 1718

A. P. F. VI. G1]

SUBJECT.....

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Diary No. of letter replied to.....

Section Home

File No. 17-18

Serial No. 3

No. P 1297 / Revenue

General and Revenue Secretariat

( )

the *192*

To The Chief Conservator of Forests
Bangalore.

Date of issue 23.5.28

Signed by Asst Secy to Govt

Sir,

I am directed to forward herewith a copy of the fol in O.S. 30 of 28-29 (Chikkanappa v Chief Secretary) on the file of the District Court, Bangalore, and to request you to ~~send in a detailed report on the facts of the case~~ report with all the connected ~~records relating to it~~.

The matter may be treated as urgent

I have etc

Give necessary instructions to the Public Prosr to enable him to draw up a written statement & send it to this office for approval

of enclosures.....

Copied by

Examined by .....

Dy Legal Adv & Secy.

Copy to Public Prosr

over

WD0325—GPB—80,000—26-5-27

No. 165/28-29
encl 1 file.

Bangalore
1313/28 19-9-1928
20

From

The public prosecutor
Bangalore

To The Legal Remembrancer.
and Secretary to Government,
Law Department.
Bangalore.

Re: OS 3/28-29 plaintiff Chickmagappa

Sir

I have the honor to send herewith the draft written statement in above case for your approval and the signature of the chief Secretary. The entire file sent herewith. The case posted to 2-10-28 for filing written statement in the court.

I have the honor to be,
Sir.
your most obedient Servant

B M K Aiyar

Public prosecutor,
Bangalore

In the court of the District judge, Bangalore
OS. No. 3 of 28-29

Plaintiff	Defendant
Chiknagappa	Chief Secretary to Government. Bangalore

under order 8 rule 1 of C.P.C. this defendant begs to state as follows:-

Defendant admits allegations in para 2 plaint except the allegation as to his entering into a Contract with the Director of Sandalwood oil Factory which the Forest Department is not aware of.

Defendant admits allegations in para of the plaint with respect to institution of criminal proceedings against plaintiff. plaintiff has removed quantity of fuel in excess of what he was entitled to.

3. This defendant submits that plaintiff has broken the contract in as much as he did not remove the fuel he was entitled to within the time stipulated in the Contract. Hence Contract was broken and became void.

4. plaintiff is not entitled to any of the amounts he claims or to any other relief

5 plaintiff is not entitled to interest

6 plaintiff is not entitled to damages

7 No notice as Contd. Under Sec 80 of C.P.C. was given mandatory prior to institution of suit. Suit is therefore liab to be dismissed

8. The cause of action is incorrect.

9. Defendant does not admit allegations in the plaint which are not expressly admitted herein.

10. Defendant therefore prays that the suit may be dismissed with costs.

I, the above named defendant do declare what is stated above is true to the best of my knowledge information and belief

Bangalore
dt/

IN THE COURT OF THE DISTRICT JUDGE,BANGALORE.

O.S.No. 3 of 28-29.

Plaintiff	Defendant
Chiknagappa.	Chief Secretary to Government,Bangalore.

Under Order 8 rule 1 of C.P.C. this defendant begs to state as follows:-

1. Defendant admits allegations in para 2 of the plaint except the allegation as to his entering into a contract with the Director of Sandalwood Oil Factory which the Forest Department is not aware of.

2. Defendant admits allegations in para 3 of the plaint with respect to institution of criminal proceedings against plaintiff.Plaintiff has removed quantity of fuel in excess of what he was entitled to.

3. The defendant submits that plaintiff has roken the contract in as much as he did not re-ove the fuel he was entitled to within the time ti,ulated in the contract. Hence contract was roken and became void.

4. Plaintiff is not entitled to any of the mounts he claims or to any other relief.

5. Plaintiff is not entitled to interest.

6. Plaintiff is not entitled to damages.

7. The cause of action is incorrect.

8. Defendant does not admit allegations in ie plaint which are not expressly admitted here-i.

9. Defendant therefore prays that the suit may be dismissed with costs.

I, the above named defendant do declare what is stated above is true to the best of my knowledge information and belief.

Bangalore,

September 1928.

App. F. VI. cl.]

SUBJECT.....

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Section

File No

Seria No

Diary No. of letter replied to.....

No.

Copy with re cost

To The Public Prosecutor.....
Bangalore

General and Revenue Secretariat
( )
the *192*

Sir,

With reference to your letter No: 165 of 28-29 dated 19/20th Sept 1928 regarding O.S. 3 of 28-29 in the District Court, Bangalore, I am directed to return herewith the file of papers sent as also the written statement duly signed by the Chief Secretary.

I have etc

for Secy to Govt
Law Dept
24.9.28
24/9

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

over

WD 0562—GPB—31,000—17-8-25

1412 P 27

In Reply Refer to
No. B3-22-404-28
Enclo.....

Tel: Address
"Forestcon"

Chief
Office of the Conservator of Forests
in Mysore,
13.

Bangalore 23rd September *1928*.
26

From

Chief
The Conservator of Forests in Mysore,
Bangalore.

To

The Secretary to Government,
Law Department, Bangalore.

Subject: Re: O.S. 3/28-29 (Chicknagappa Vs. Chief Secretary) in the District Judge's Court at Bangalore.

Sir,

With reference to your letter No.P.1297/Law17-28 dated 28-8-1928 on the above subject, I have the honour to state that the District Forest Officer, Tumkur informs me that the prosecution in this case was conducted by Mr. K. Rangaiengar in the original and appellate courts, and the criminal revision petition itself in the Chief Court was argued on behalf of Government by the Government Advocate. It seems, therefore advisable if the Government Advocate is requested to appear in this civil case also, as he has already acquainted himself with the facts and law involved in the case. I request the favour of an early reply in the matter.

I have the honour to be,
Sir,
Your most obedient servant,

B. Ramaiengar

Chief Conservator of Forests.

A. P. F. VI. G1]

SUBJECT.....

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.....

Diary No. of letter replied to.....

Section

File No.

Serial No.

No. 1993

General and Revenue Secretariat

( )

the *192*

To The Chief Conservator of Forests in Mysore, Bangalore

Date of issue 7/10/28

Signed by JH NS

→ With reference to your letter No 83-22-404-28 dated 23/26 November 1928 ~~regarding~~ suggesting that the Govt advocate may be engaged to defend the suit O.S. 3 of 28-29 (Chikka nagappa v chief secretary) in the District Court, Bangalore, I am directed to state that the Public Prosecutor, Bangalore being the Govt pleader,

List of enclosures.....

Copied by .....

Examined by .....

over

WD0325—GPB—80,000—26-5-27

~~Entrusted with the Case~~ under rule 47 of the Rules for the Conduct of the legal affairs of Government. (Vide G.O. No. P. 4966-5045 & Cls 76-23-1 dated 20-19th March 1924). may appear in ~~Appeal~~ ~~Application~~ the Case.

I have etc

Sir Sen Gupta
Counsel

Dec
29/8/25